IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE FOURTH DAY OF NOVEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE V.V.S.RAO

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WRIT PETITION NO : 14598 of 2004

Between:

Syed Basith Hussain, S/o. Syed Mahmood Hussain,
H.No. 1-8-350/A/14, Phool Bagh, P.O. Keshogiri, Chandrayan Gutta,
Hyderabad.

..... PETITIONER

AND

The Regional Passport Office, Rep. by Passport Officer, Near Clock Tower,
Secunderabad.

.....RESPONDENT

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue of writ of Mandamus, or any other appropriate writ, order or direction, more particularly writ of mandamus declaring the action of the respondent in not issuing fresh passport with the correct date of birth of the petitioner as illegal, arbitrary and violation of Article 14 of the constitution and consequently direct the respondent to issue a fresh passport with correct date of birth of the petitioner as 06-01-1972.

Counsel for the Petitioner:MR.J.P.SRIKANTH

Counsel for the Respondent: MR.A.RAJASHEKAR REDDY (SC FOR CG)

The Court made the following :

THE HON'BLE SRI JUSTICE V.V.S.RAO

WRIT PETITION NO.14598 OF 2004

ORDER:

This writ petition is filed seeking a declaration that the action of the respondent in not issuing fresh passport with correct date of birth of petitioner as illegal, arbitrary and violation of Article 14 of the Constitution, and consequently direct the respondent to issue a fresh passport with correct date of birth of petitioner as 6.1.1972.

Though interlocutory application are listed, with the consent of the learned counsel for the petitioner and the learned Standing Counsel for the Central Government, the Writ Petition itself is heard finally and is being disposed of.

It is the case of the petitioner that he was born on 6.1.1972. In February, 1986 he applied for passport. In the application, date of birth of petitioner was inadvertently mentioned as 4.1.1964. Accordingly passport bearing No. A 0361918 was issued showing his date of birth as 4.1.1964. On 15.4.2004, petitioner approached the respondent seeking correction of date of birth in the passport. He also enclosed Secondary School Certificate along with the application to prove that his correct date of birth is 6.1.1972. The respondent refused to correct the date of birth in the passport. Hence, the present Writ Petition.

In ***Ali Imran v. Regional Passport Officer, Secunderabad***, I have considered the

Circular dated 18-4-2001 issued by the Government of India in the Ministry of External Affairs pursuant to the judgment of the High Court of Judicature at Bombay in Civil Writ Petition No.1072 of 2000. The instructions/clarifications issued in the said Circular read as under.

a. Where an applicant is seeking rectification/correction of a mistake in the entry on date of birth/place of birth in the passport, PIA (passport issuing authority) may after verifying/satisfying himself, affect the correction treating the same as a technical correction. There is no need for a declaratory order in such cases.

b. Where a competent authority issuing a birth certificate or an educational board registering a date of birth along with place of birth as valid were to issue any correction or amendment, PIA may effect the necessary amendment in the passport without insisting on a Court Order. As per the provisions of Section 21 of the General Clauses Act, 1997, a competent authority issuing a certificate could also make necessary amendments to the same.

c. Where the initial entry has been made on the basis of a supportive document issued by one competent authority i.e., school/educational authority and the applicant subsequently requests for a change on the basis of a certificate issued by another competent authority i.e., municipal authorities resulting in conflicting sources of valid proof, the PIA should direct the applicant to obtain a civil order from a competent court of jurisdiction, certifying the valid date of birth/place of birth.

In view of the above clarifications, I disposed of the said case observing as under.

Be it noted that under the provisions of the Passports Act, 1967, no power is vested in the Regional Passport Officer to correct entries in the passport. However, pursuant to the judgment of the High Court of Bombay referred to hereinabove, it is now permissible for the Regional Passport Officer to accept applications for rectification/correction. Nonetheless, as per clause (c) above, if an entry had been made on the basis of a supportive document issued by one authority i.e., school or educational authority and subsequently the applicant requests for a change of the entry on the basis of the certificate issued by another authority the passport issuing authority is required to direct the applicant to obtain a proper declaration from the civil court.

In this case, the petitioner has produced Secondary School Certificate to prove that his correct date of birth is 6.1.1972. Therefore, the claim of the petitioner is well supported and squarely falls in Clause (a) of the Circular dated 18-4-2001.

Following the judgment of this Court in ***Ali Imran*** (supra), this Writ Petition is also disposed of directing the respondent to consider the application of the petitioner along with the Secondary School Certificate No.PC/01/0145550/5, dt.6.6.1988 issued by the Joint Secretary, Board of Secondary Education, Andhra Pradesh, Hyderabad, and to pass appropriate orders in the light of the observations made in the above judgment. There shall be no order as to costs.

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(V.V.S.RAO, J)

4.11.2004

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To

1. The Regional Passport Officer,

The Regional Passport Office,

Near Clock Tower, Secunderabad

2. 2 CD copies.